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Follow-up to the recommendations of the Permanent Forum

Compilation of information from Member States on addressing the recommendations of the Permanent Forum

Note by the Secretariat

Summary

The present report is a compilation of the responses received from Member States to a questionnaire on action taken to implement the recommendations of the Permanent Forum on Indigenous Issues and the recommendations contained in the United Nations Declaration on the Rights of Indigenous Peoples and the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples. The questionnaire and the full responses from Member States are available on the website of the sixteenth session of the Permanent Forum (www.un.org/development/desa/indigenouspeoples/unpfii-sessions-2/sixteenth-session.html).

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I. Introduction

1. The annual sessions of the Permanent Forum on Indigenous Issues provide an important platform for Member States and indigenous peoples to share experiences and challenges, as well as to learn of different strategies that could be used to address their concerns. The recommendations of the Permanent Forum address a wide range of issues that are reflected in its broad thematic mandate, including education, culture, health, human rights, environment and economic and social development. Recommendations in these mandated areas and on other topics that are relevant to indigenous peoples have been made to Member States, United Nations agencies, funds and programmes, indigenous peoples and civil society organizations.

2. In order to assess action taken by Member States to implement recommendations, a questionnaire is distributed annually to Member States. In 2016, through the secretariat of the Permanent Forum, Member States were asked to respond to 10 questions regarding their implementation of Forum recommendations, the United Nations Declaration on the Rights of Indigenous Peoples and the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples. Responses have been received from Denmark and Greenland, El Salvador, Honduras and Peru.[1]

3. The questionnaire requested information from Member States with respect to the following:

(a) Measures taken to address the recommendations made by the Forum at its fifteenth session and at its previous sessions;

(b) Main challenges encountered by Governments in implementing the recommendations of the Forum;

(c) Factors that facilitated implementation by Governments of Forum recommendations;

(d) Main achievements in strengthening the rights of indigenous peoples;

(e) Assessment of gains and achievements in efforts to implement the United Nations Declaration on the Rights of Indigenous Peoples;

(f) Measures taken or planned relating to policies and mechanisms for maintaining and building on those gains;

(g) Empowerment of indigenous women and indigenous youth;

(h) Collection of disaggregated statistical data on indigenous peoples and accessibility of collected information;

(i) Implementation of the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, and how the United Nations system could best support their efforts to achieve the aims of Declaration, in particular, the preparation of national action

[1] The questionnaire was sent to the 193 States Members of the United Nations. The comprehensive responses are available from www.un.org/indigenous.

plans, strategies or other measures to achieve the aims of the Declaration and the participation of indigenous peoples in that process;

(j) Inclusion of information on indigenous peoples in the follow-up and review of the 2030 Agenda for Sustainable Development and efforts to capture progress in its implementation with respect to indigenous peoples.

II. Responses of Member States to the questionnaire

4. The actions of States were diverse and reflect different levels of political commitment. Generally speaking, Member States have provided information relating to structural, process and outcome-oriented measures taken at the national level with respect to indigenous peoples. Structural measures reflect the ratification or adoption of legal instruments and the existence of the basic institutional mechanisms necessary for the realization of human rights. Process measures refer to policy instruments, programmes and specific interventions taken by States and individuals to protect and fulfil rights. Finally, outcome measures, whether direct or indirect, have also been reported in relation to the realization of indigenous peoples' rights.

5. A summary of the information provided in the responses that is most relevant to the situation of indigenous peoples is presented below. Owing to space limitations, not all examples of laws, policies and programmes at the national level relevant to indigenous peoples are reflected in the present report. The information summary is organized around five main themes: (a) recommendations of the Permanent Forum; (b) main achievements in strengthening the rights of indigenous peoples; (c) progress in the implementation of the United Nations Declaration on the Rights of Indigenous Peoples; (d) implementation of the outcome document of the World Conference on Indigenous Peoples; and (e) indicators of progress and data collection.

A. Recommendations of the Permanent Forum

Recognition of indigenous languages

6. In reference to the recommendation in the report on the fifteenth session of the Permanent Forum relating to the recognition of the language rights of indigenous peoples and the development of language policies to promote and protect indigenous languages (see E/2016/43, para. 9), the following responses are of relevance:

7. Denmark stated that the Act on Greenland Self-Government of 2009 recognized the right of Greenlandic peoples to self-determination under international law, with the Greenlandic language being the official language of Greenland. In 2010, the Law on Language Policy, adopted by the parliament of Greenland, sought to strengthen the Greenlandic language as the mother tongue and as a second language for some inhabitants. Private companies, public authorities and institutions were required to adopt language policies when working in Greenland.

8. In El Salvador, the Secretary of Culture of the Presidency had developed a framework for bilingual intercultural education within the formal education system in order to preserve and revitalize indigenous languages. El Salvador also pointed out that measures had been taken to preserve and disseminate the Nahuat-Pipil indigenous language. In addition, various international instruments related to indigenous peoples, including the United Nations Declaration on the Rights of Indigenous Peoples, had been translated into the Nahuat language. Similarly, the Government of Peru had implemented itinerant platforms of social action, with several workshops to promote indigenous languages in the Loreto region.

Indigenous youth

9. In reference to the recommendation in the report on the fifteenth session that referred to indigenous youth (see E/2016/43, para. 32), in El Salvador, the Secretary of Culture of the Presidency, with the support of the United Nations Educational, Scientific and Cultural Organization implemented an eight-month training programme for 30 indigenous youth. As a result, an indigenous youth association was established. However, the lack of adequate financial resources limited the participation of indigenous youth in other forums.

Protection of traditional knowledge

10. In the report on its fifteenth session, the Permanent Forum highlighted the need to develop legislative measures, with the full and effective participation of indigenous peoples, to protect traditional medicine and knowledge and to secure the rights of indigenous peoples to intellectual property (see E/2016/43, para. 44). The responses related to that recommendation are as follows:

11. The National Registry Centre of El Salvador implemented a national policy that promoted the cultural development, protection of biodiversity and common heritage, traditional knowledge and cultural expressions of indigenous peoples. The Government pointed out in its report, however, that there was a need to establish adequate mechanisms to safeguard biodiversity and the traditional knowledge of indigenous peoples. In that regard, the Government was organizing workshops and on-site visits to raise awareness and spur action to promote and protect the cultural expressions, wisdom and traditional knowledge of indigenous peoples.

12. Denmark stated that, in 2016, the parliament of Greenland had adopted Law No. 3 on the use of genetic resources and activities related to conservation of biological diversity, the sustainable use of genetic resources and fair and equitable sharing of benefits arising from the utilization of traditional knowledge associated with genetic resources held by indigenous peoples and local communities. The Government of Greenland had the sovereign right to possess and utilize Greenland's genetic resources and to permit others to collect and use Greenland's genetic resources. The provisions of the Greenland Parliament Act on genetic resources and their utilization also applied to traditional knowledge associated with genetic resources held by indigenous peoples and local communities, and the utilization thereof.

13. In response to the same recommendation, Peru, through Supreme Decree No. 006-2016-MC, established a multisectoral permanent commission on the

safeguarding and revalorization of the knowledge, wisdom and traditional and ancestral practices of indigenous peoples. The commission was led by the Ministry of Culture. It was composed of representatives of various institutions that dealt with those issues as well as two representatives of a working group on indigenous policies that was established pursuant to ministerial resolution No. 403-2014-MC, with the aim to engage in a dialogue with indigenous peoples. The commission prepared technical reports with proposals for the design of normative instruments on the safeguarding, protection, promotion and revalorization of the knowledge, wisdom and traditional practices of indigenous peoples, and followed up on the implementation of those norms.

Support to representative institutions of indigenous peoples

14. In reference to the recommendation in the report on the fifteenth session that called upon States to support the activities of representative institutions of indigenous peoples (see E/2016/43, para. 22), the following responses are pertinent:

15. In El Salvador, the Secretary of Culture of the Presidency established a multisectoral space where indigenous peoples' organizations and communities and government representatives identified joint actions to design programmes and public policies for the well-being of indigenous peoples.

16. Peru established a permanent dialogue mechanism between indigenous peoples and the Government. The United Nations Development Programme (UNDP), the International Labour Organization and the Office of the Ombudsperson participated actively in the mechanism. Its aim was to coordinate, propose and follow up on public policies related to indigenous peoples. In addition, the Ministry of Culture prepared a guide on the provision of public services in a culturally relevant manner so that public servants could serve indigenous peoples and Afro-Peruvians in a culturally appropriate manner. The guide was implemented in 2015 and 2016 by public entities in the health and education sectors, as well as by the local governments of the Ayacucho, Loreto and Ucayali regions. In addition, the Ministry of Culture, in coordination with the Ministry of Health, local authorities of the Loreto region and other Amazonian regions, indigenous peoples' organizations and others, developed an action plan to prevent HIV/AIDS, tuberculosis and malaria with an intercultural focus.

Situation of indigenous children and women

17. Denmark and Greenland reported that the Greenland Government had taken over responsibility for all domestic affairs in Greenland, including social affairs, gender equality and education. In response to the high rate of suicide in Greenland, the Government and other international and national organizations had taken measures and implemented initiatives to prevent suicides. One of the measures included the first national strategy on suicide prevention for the period 2013-2019 that involved coursework and education for local communities and professionals such as teachers, social workers and doctors.

18. In 2012, the Government of El Salvador adopted a general law on youth that reflected the need to raise awareness and expand knowledge of the rights of indigenous children and adolescents and to provide training to those working with

and for them. In regards to indigenous women, in 2011, El Salvador adopted a law on equality, equity and the eradication of discrimination against women. That law guaranteed the rights of women and prohibited discrimination against women based on their socioeconomic condition or ethnic, cultural or political background. In 2012, a special integral law on a life free from violence for women came into force.

19. In 2016, Honduras adopted a policy against racism and racial discrimination for the comprehensive development of indigenous and Afro-Honduran peoples. The policy addresses social and political participation, gender equality and the empowerment of indigenous women and girls, intercultural education and health, lands and natural resources and access to justice. The Directorate of Indigenous and Afro-Honduran Peoples, through a consultation process at the national level with representatives of indigenous peoples' organizations, implemented a project on gender equality and empowerment of indigenous women and girls with the support of the Office of the United Nations High Commissioner for Human Rights, UNDP and the Swiss Agency for Development and Cooperation. In addition, indigenous women have participated in workshops to draft a law on free, prior and informed consent that is in the final stage of approval by indigenous peoples' organizations.

20. In order to promote the participation of indigenous women in Peru, in October 2015, the working group on indigenous policies introduced a new component for the mainstreaming of a gender approach in its work.

Main challenges faced in implementing the recommendations of the Permanent Forum

21. Among the main challenges identified relating to the implementation of the recommendations of the Forum were the high number of annual recommendations, their lack of specific targets or concrete relevance, either to country contexts or more broadly, and the lack of knowledge about or dissemination of the recommendations after the session.[7]

22. In that regard, Denmark noted that, in order to ensure the implementation of the recommendations of the Permanent Forum, it was necessary to determine the status of implementation. It was also noted that such an exercise could provide an overview that could serve as the basis for analysis of the more complex recommendations and provide a point of departure for discussions on a future strategic focus.

23. Peru recognized that one of the main obstacles was the lack of official information on the socioeconomic situation of indigenous peoples. In 2017, Peru will carry out a census, including a question on self-identification for indigenous peoples, which will help to bring greater visibility to the actual situation of indigenous peoples. Another obstacle to the implementation of the Forum's recommendations was the lack of awareness or interest on the part of many public institutions, as well as difficulties in gaining access to certain indigenous communities due to their being located in remote areas with difficult terrains.

[7] See the background analysis prepared for the development of a system-wide action plan on indigenous peoples, based on information provided by Member States and United Nations programmes, funds and agencies between 2011 and 2015. All are available from www.un.org/development/desa/indigenouspeoples/about-us/system-wide-action-plan.html.

24. El Salvador noted a lack of institutional capacity to work with indigenous peoples in order to guarantee the elaboration and execution of culturally appropriate policies and programs, the lack of knowledge and sensitivity on the part of State institutions with respect to indigenous rights, and the lack of recent, reliable, complete and disaggregated statistical data on social and economic indicators in relation to indigenous populations, indigenous children and women.

B. Main achievements in strengthening the rights of indigenous peoples

25. For Denmark, the establishment of a self-governance system in Greenland, pursuant to the Act on Greenland Self-Government of 2009, which replaced the Greenland Home Rule Act of 1978, and the transfer of additional authority and responsibility to Greenlandic authorities, constituted the main achievements. The act on self-government affirmed that the Greenlandic authorities exercised legislative and executive power in the areas over which they had assumed responsibility.

26. In El Salvador, the main achievement reported was the 2014 constitutional reform that specifically recognized indigenous peoples. Article 63 of the Constitution stated that El Salvador recognized indigenous peoples and would adopt policies in order to maintain and develop their ethnic and cultural identity, worldviews, values and spirituality. Other developments included the adoption of a law on culture and a law on crafts in 2016, as well as codes on indigenous rights in four municipalities with large indigenous populations, including Cuisnahuat, Izalco, Nahuizalco and Panchimalco).

27. In Honduras, article 346 of the Constitution referred to indigenous peoples' rights, stating that it was the duty of the State to adopt measures to protect the rights and interests of indigenous communities in the country, especially the lands and forests where they had settled. Other constitutional provisions, including articles 172 and 173, referred to the obligation of the State to foster the country's rich anthropological heritage, indigenous cultures and folklore. Other achievements highlighted included the establishment of the Directorate of Indigenous and Afro-Honduran Peoples in 2014, with the goal of improving the quality of life indigenous and Afro-Honduran peoples, and the adoption of a policy against racial discrimination (PCM-027-2016).

28. Peru reported that the adoption of Supreme Decree No. 003-2015-MC on the mainstreaming of an intercultural approach guaranteed the rights of culturally diverse groups, in particular indigenous peoples. The application of the policy was mandatory for all State agencies and institutions. The Ministry of Culture had developed an online platform to monitor cases of ethnic and racial discrimination as a way to report and follow up on such cases. In addition, a working group on indigenous peoples' policies, established in 2014 and composed of seven indigenous peoples' organizations and the Vice-Ministry of Interculturality, constituted the main platform for dialogue. The working group had been extended at the regional level to the Cusco, Loreto, Puno and Ucayali regions.

C. Progress in the implementation of the United Nations Declaration on the Rights of Indigenous Peoples

29. In Denmark, the rights of indigenous peoples remain high priorities in Danish foreign policy. At the multilateral level, Denmark participates in a number of United Nations forums where the rights of indigenous peoples' are discussed and works actively to ensure that references to the United Nations Declaration on the Rights of Indigenous Peoples are included in resolutions adopted by the Human Rights Council and the General Assembly. In addition, Denmark continues to provide financial support to a number of organizations and funds that promote the rights of indigenous peoples. Furthermore, Denmark, as a member of the European Union, is working actively to bring the cooperation policy of the European Union into line with the Declaration. In that regard, Denmark has provided a senior national adviser on indigenous issues to support the updating of the policy and guidelines of the European Union on indigenous peoples. Denmark also provides financial support to the Inuit Circumpolar Council of Greenland, which focuses on the rights of Inuit peoples.

30. In El Salvador, following the legal recognition of indigenous peoples as rights-bearers, a multisectoral platform composed of indigenous peoples' organizations and government representatives was established to prepare a national action plan on indigenous peoples. On 10 January 2017, the draft national action plan was presented by a representative of the Ministry of Foreign Affairs and the Resident Coordinator of the United Nations country team. Similarly, other multisectoral platforms had been established, such as an indigenous platform on the environment and a platform on agriculture and livestock. A specific unit on the rights of indigenous peoples had also been established within the national human rights institution.

31. To promote the United Nations Declaration on the Rights of Indigenous Peoples, the Government of Honduras had allocated the Directorate of Indigenous and Afro-Honduran Peoples a total budget of 858,506 United States dollars. The Directorate formulated, coordinated and implemented programmes and policies relating to indigenous peoples in the area of social and economic development. Honduras had drafted a number of legislative and public policy proposals to be submitted to the executive or the legislature for approval, including: (a) a public policy against racism and racial discrimination for the comprehensive development of indigenous and Afro-Honduran peoples, addressing social and political participation, intercultural education and health, land and natural resources and access to justice; (b) a draft special law on the rights of indigenous peoples and people of African descent, which includes provisions on the registration, expansion, upgrading and delimitation of indigenous lands, education, natural resources, cultural heritage, justice and a new institutional structure for indigenous affairs; and (c) a draft framework law, which was in the final stages of discussions among indigenous peoples, on engaging in consultations with indigenous and Afro-Honduran peoples and obtaining their free, prior and informed consent.

32. In Peru, the Vice-Ministry of Interculturality coordinated with other government institutions to promote and guarantee the rights of indigenous peoples in full conformity with the United Nations Declaration on the Rights of Indigenous

Peoples and the Indigenous and Tribal Peoples Convention, 1989 (No.169) of the International Labour Organization.

D. Implementation of the outcome document of the World Conference on Indigenous Peoples

33. The response from Denmark and Greenland noted that they had focused on the participation of indigenous peoples at the United Nations in all matters and meetings relevant to them. They had also been very active in the reforming of the mandate of the Expert Mechanism on the Rights of Indigenous Peoples, approved at the thirty-third session of the Human Rights Council, in 2016.

34. In 2015, the Government of El Salvador, along with the National Indigenous Coordinating Council, and with the support of the United Nations country team, the secretariat of the Permanent Forum on Indigenous Issues and the Division for Social Policy and Development of the Department of Economic and Social Affairs initiated a series of workshops to prepare a national action plan on indigenous peoples. The plan identifies priorities for indigenous peoples on issues relating to economic and social development, cultural identity, land and territories and 2030 Agenda for Sustainable Development. A draft of the plan was launched on 10 January 2017.

E. Indicators of progress and data collection

35. Denmark and Greenland reported that no national indicators had been developed to monitor progress made relating to indigenous peoples' issues. In Greenland, disaggregated data on indigenous peoples was not collected. In Denmark, Statistics Denmark was responsible for the national census and data collection. The Government of Greenland had corresponding responsibility in Greenland.

36. In El Salvador, the entity responsible for national statistics and data collection was the General Directorate on Statistics and Census. According to a 2007 population and housing census, the indigenous population of El Salvador was estimated to be 0.2 per cent of the national population, equivalent to 13,310 people. In that regard, the Government pointed out that those figures had been called into question by indigenous peoples themselves who believed that the indigenous population of the country was higher. They brought a case before the Supreme Court of Justice of El Salvador and the Committee on the Elimination of Racial Discrimination. A new census would be conducted in the future.

37. In Honduras, disaggregated data on indigenous peoples was not available. The National Institute for Statistics was the entity responsible for the national census and data collection. According to the 2013 census, 717,618 people identified themselves as being indigenous or Afro-Honduran in origin.

38. Peru noted that the Vice-Ministry of Interculturality had been working on a series of national indicators. It was also working on specific questions for the national household survey, the demographic and family health survey and the 2017 population and housing census. Both surveys included questions on self-identification and indigenous languages. For the 2017 census a question on self-

identification would be included for the first time in accordance to Law No. 27778 of 2002. The National Institute for Statistics and Information was responsible for the national census and data collection. The official database on indigenous peoples was maintained by the Vice-Ministry.